

CALIFORNIA COASTAL COMMISSION

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Prepared May 19, 2004 (for the June 9, 2004 hearing)

To: Commissioners and Interested Persons

From: Diane Landry, District Manager
Dan Carl, Coastal Planner

Subject: **Santa Cruz County LCP Major Amendment Number 3-03 Part 2 (Wireless Facilities Ordinance)** Proposed major amendment to the Santa Cruz County certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's June 9, 2004 meeting to take place at the Sheraton Los Angeles Harbor, 601 South Palos Verdes Street, in San Pedro.

Summary

Santa Cruz County is proposing to add wireless communications facility (WCF) ordinance sections to its certified Local Coastal Program (LCP) Implementation Plan (IP, also known as the LCP zoning code). Currently, WCFs (such as cellular telephone facilities, towers, and antennas for transmitting electromagnetic/radio signals) aren't explicitly addressed by the LCP. Such facilities are, however, development regulated by the current LCP in the coastal zone, including the use and design standards of the underlying zone districts in which they may be proposed. The new proposed ordinance provides specific standards for WCFs, including specific siting and design criteria meant to minimize the potential for such facilities to negatively impact the scenic, agricultural, open space, and community/aesthetic character of the County's built and natural environment. The WCF ordinance sections are not meant to pre-empt federal law, and in particular are written to be consistent with the Federal Telecommunications Act of 1996 (FTA). FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs (including prohibiting them from regulating WCFs on the basis of the environmental/health effects of radio frequency (RF) emissions). FTA does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. Per FTA, such regulation cannot discriminate among service providers and cannot prohibit provision of wireless service within the County. Current case law is slowly shaping the state and local government regulation parameters.

The County's ordinance would apply throughout the County's coastal zone and is structured to have three basic tiers within which different levels of WCF review and criteria would apply. Within particularly sensitive areas of the County (such as between the first public road and the shoreline, in certain residential and agricultural zoning districts, and school grounds), WCFs would be prohibited. Within other sensitive areas of the County (the right-of-way of the first public road, and in specific residential and other zoning districts), WCFs would be restricted and criteria would be established on how and where they could be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs would be allowed subject to specific application, siting and design criteria that would be established. Certain types of WCFs (such as minor facilities, personal television antenna, public safety



California Coastal Commission

June Meeting in San Pedro

Staff: D.Carl Approved by:

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facilities, etc.) would be exempted from most of the requirements of the proposed IP sections (but not the remainder of the LCP). The ordinance would establish a variance criteria to vary those parts of it that can be proven by an applicant to violate FTA in an individual WCF application.

The Commission previously reviewed and approved (with modifications) a similar proposal by Santa Cruz County in August 2003. The County was mostly in agreement with the Commission's suggested modifications at that time, but, instead of accepting the modifications, the County subsequently decided that it wanted to restructure several components of the ordinance and resubmit a revised ordinance for Commission review. It is this revised ordinance that is now before the Commission. The revised ordinance mostly incorporates the Commission's previous suggested modifications, with some minor and some major changes. The most significant changes from what was approved previously by the Commission involve requirements for facilities exempt from the ordinance and standards applicable to the right-of-way of the first through public road parallel to sea.

In terms of exempt facilities, the Commission had previously suggested that some of the general siting requirements applicable to WCFs still apply to otherwise exempt facilities, and that some LCP text be added encouraging (but not requiring) exempt WCFs to reduce their visual impact (through stealth technologies, co-location, screening, undergrounding support facilities, etc.). The County has re-worded the section that describes the general siting requirements that apply to exempt facilities, but the re-wording does not change the sections that the Commission suggested apply to coastal zone development and does not change the Commission's suggestions in this regard. The suggested text encouraging reduction of visual impacts has been deleted in the current version. The effect of this change is minor because this previously suggested language would not have imposed any requirements on exempt WCFs. Although the suggested language would have provided additional explicit context for the review of exempt WCFs, its removal shouldn't significantly reduce the effectiveness of the review of these facilities under the LCP because existing LCP policies provide similar direction for avoiding coastal resource impacts.

In terms of the first through public road, the Commission's previous approval made both the right-of-way and the area seaward of it part of a prohibited area. This "prohibition" would still have allowed siting of WCFs in that area under certain circumstances, but it would have been an impediment to such siting. The County indicated that they envision the right-of-way as an appropriate siting location for WCFs in many cases, provided such facilities are micro-facilities that are co-located to minimize viewshed impacts. The County's revisions now define the right-of-way as a restricted area within which co-located micro facilities (e.g., small panels on existing power poles) would be allowed in certain circumstances; the area seaward of the right-of-way would remain a prohibited area. This proposed restricted right-of-way area shouldn't result in WCF development that is conspicuous, and may allow for lesser impacts cumulatively because a series of small (micro) facilities would be integrated into the existing right-of-way landscape, negating the need for relatively larger facilities inland of it.

In general, the revised proposed WCF ordinance sections provide clear, well thought-out policy direction for the siting of WCFs. The County has honed the ordinance over the past three years through multiple public hearings, through an advisory group including stakeholders from the wireless service



industry and local environmental groups, and more recently with Commission staff during the course of the previous amendment review and the subsequent County process. The proposed WCF requirements clearly and adequately address the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the County's rural north and south coasts and the areas seaward of the first public road that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas.

Staff is mostly supportive of the proposed ordinance text, but believes that there are a few areas that need to be clarified so that coastal resources are protected to the maximum extent feasible as directed by LCP Land Use Plan (LUP) policies. These changes are minor clarifications designed to help tighten the ordinance language and eliminate potential areas of confusion and/or internal inconsistency that could affect the implementation and function of it in the future. Staff has worked closely with County staff on the suggested modifications, and County and Commission staff are in agreement on the changes.

With the identified modifications, staff recommends that the Commission find that the proposed LCP amendment is consistent with and adequate to carry out the policies of the LUP. As so modified, staff recommends that the Commission approve the LCP amendment.

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I. Staff Recommendation – Motions and Resolutions



Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make two motions in order to act on this recommendation.¹

1. Denial of Implementation Plan Major Amendment Number 3-03 Part 2 as Submitted
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (1 of 2). I move that the Commission **reject** Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County.

Resolution to Deny. The Commission hereby **denies** certification of Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

2. Approval of Implementation Plan Major Amendment Number 3-03 Part 2 if Modified
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 2). I move that the Commission **certify** Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan if it is modified as suggested in this staff report.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there

¹ Note that the motions and resolutions refer to "Part 2 of Major Amendment Number 3-03." The reason for this is that this amendment request is part two of a three part LCP amendment submitted by the County. In other words, LCP amendment number 3-03 is in three parts. The other two parts of the amendment are not a part of this staff report, and are not before the Commission at this time.



are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the County of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by December 9, 2004), by formal resolution of the Board of Supervisors, the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added

- 1. Modify Section 13.10.660(e).** The following changes shall be made to the first paragraph of this subsection:

The types of wireless communications facilities, devices and activities listed below are exempt from the provisions of Sections 13.10.660 through 13.10.668 inclusive, except that Sections 13.10.663(a)(1) through 13.10.663 (a)(8) shall continue to apply if the facility, device and/or activity requires a Coastal Zone Approval pursuant to Chapter 13.20. This exemption is not intended to limit or expand the scope of other Federal, state and local policies and regulations, including but not limited to the General Plan/Local Coastal Program, which apply to these facilities, devices and/or activities. ~~If Chapter 13.20 requires a Coastal Development permit for a facility, device or activity exempted from this ordinance, the factors set forth in 13.10.663(a)(1) through 13.10.663(a)(8) shall apply.~~

- 2. Modify Section 13.10.660(e)(7).** The following changes shall be made to this subsection:

Wireless communication facilities and/or components of such facilities to be used solely for public safety purposes, installed and operated by authorized public safety agencies (e.g., County 911 Emergency Services, police, sheriff, and/or fire departments, first responder medical services, hospitals, etc.). Unless otherwise prohibited by law or exempted by action of the Board of Supervisors, public safety agencies shall be required to provide a map of facility locations for inclusion in the County's Wireless Communication Facilities GIS map. If a wireless communication facility approved for an authorized public safety agency is not or ceases to be operated by an authorized public safety agency, and if a non-public safety agency operator proposes to use the approved facility, then the change in operator shall require that the new operator submit an application for the wireless communication facility to be evaluated as if it were a new facility subject to Sections 13.10.660 through 13.10.668 inclusive and the General Plan/Local Coastal Program. The facility shall not be operated by the new operator until a final decision has been rendered on the application.



3. Modify Section 13.10.661(b)(2). The following changes shall be made to this subsection:

Prohibited Coastal Areas. Wireless communication facilities are prohibited in areas that are located between the sea and the ~~inland~~ seaward side of the right-of-way of the first through public road parallel to the sea, unless a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a).

4. Modify Section 13.10.661(b)(4). The following changes shall be made to the end of this subsection:

...

~~In addition to the requirements of this subsection above, any wireless communications facility and any associated development in the right of way of the first public road parallel to the sea shall comply with all of the following:~~

~~(iii) — The facility shall be located on the inland side of the vehicular travel lanes unless a location on the seaward side of the vehicular travel lanes would result in less visual impact; and~~

~~(iv) If co located on a utility pole: (a) the facility shall not require the installation of a new utility pole, but rather shall be co located on an existing or replacement utility pole (where “replacement” means that there exists a utility pole in that location and it is replaced with a pole that looks the same or better (i.e., has a reduced visual impact) and has the same or lesser (i.e., has a reduced visual impact) dimensions as the existing utility pole); and (b) the facility shall only be allowed in the right of way provided the applicant’s agreement(s) with the owner and operator of the right of way and the utility pole specifies that the facility shall be removed and the site restored by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.~~

5. Modify Section 13.10.661(c)(2)(i). The following changes shall be made to this subsection:

...

c. shall have an equipment cabinet that is no more than 24” high, 18” wide, and 10” deep if mounted upon the utility pole or on the ground, or is located in an underground vault, and;

d. shall be fully camouflaged through stealth techniques to render the facility as visually inconspicuous as possible;

6. Modify Section 13.10.661(c)(2)(iii). The following changes shall be made to this subsection:

~~If located on a the utility pole,~~ The facility shall only be allowed in the coastal right-of-way provided the applicant’s agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed and the site restored by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are



to be relocated underground.

7. Modify Section 13.10.661(j). The following changes shall be made to this subsection:

Major Modification to Visual Impact. Any proposed major modification that would increase the visual impact of a wireless communication facility, as defined in Section 13.10.660(d), shall be subject to all requirements of ~~this~~ Sections 13.10.660 through 13.10.668 inclusive.

8. Modify Section 13.10.662(c). The following changes shall be made to the first paragraph of this subsection:

Alternatives Analysis. For applications for wireless communication facilities proposed to be located in any of the ~~restricted and/or~~ prohibited areas specified in Sections 13.10.661(b) and non-collocated wireless communication facilities proposed to be located in any of the restricted areas specified in 13.10.661(c), an Alternatives Analysis must be submitted by the applicant, subject to independent RF engineering review, which shall at a minimum: ...

9. Retroactivity. Section V of Ordinance 4743 and Section XII of Ordinance 4744 adopted by the County shall not apply to applications for development in the coastal zone.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Standard of Review

The standard of review for proposed modifications to the County's LUP is consistency with the Coastal Act. The standard of review for proposed modifications to the County's IP is that they must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning) standards then typically further refine LUP policies to provide guidance on a parcel by parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified LCP LUP.

B. Proposed LCP Amendment

1. Federal Telecommunications Reform Act of 1996

The County's LCP amendment proposes to regulate wireless communication facilities (WCFs) that are also regulated by federal law. The consideration of this amendment is thus bound by federal law as summarized as follows (47 U.S.C. 332(c)):

1. Federal statute prohibits state and local regulations that prohibit or have the effect of prohibiting



the provision of personal wireless services.

2. Federal statute prohibits state and local regulation of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions.
3. Any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence.

Under section 307(c)(7)(B) of the Federal Telecommunications Act of 1996 (FTA), state and local governments may not unreasonably discriminate among providers of personal wireless services, and any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence. These provisions are similar to the requirements of California law, including the Coastal Act. FTA also prevents state and local governments from regulating the placement of wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations of the Federal Communications Commission (FCC) concerning such emissions.

The LCP amendment is not meant to pre-empt federal law, and in particular is written to be consistent with the FTA. FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs, but it does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. FTA restrictions are written directly into the proposed IP text (see Section 13.10.660(a), (b), and (c) in exhibit B). Current case law is slowly shaping the state and local government regulation parameters.

2. Description of Proposed LCP Amendment

The amendment would add Sections 13.10.660 through 13.10.668 to the County's LCP IP, and would add wireless communications facilities as a conditional use in all LCP zoning districts (see proposed LCP sections in exhibit B, and proposed LCP use code additions in exhibit C). The IP text proposed would apply throughout the County's coastal zone and is structured to have three basic layers within which different levels of WCF review and criteria apply. Within particularly sensitive areas of the County (such as between the first public road and the shoreline, in certain residential and agricultural zoning districts, and school grounds), WCFs would be prohibited. Within other sensitive areas of the County (the first public road right-of-way, and specific residential and other zoning districts), WCFs would be restricted and criteria would be established on how and where they can be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs would be allowed subject to specific application, siting and design criteria. Special siting, design, and alternative analysis criteria would apply to WCFs proposed within a designated scenic area, and if WCF sites must be considered within the prohibited or restricted (if non-collocated) zone (because of FTA violation and/or because it meets certain criteria specific to the restricted area).

The County has prepared a map exhibit keyed to the restricted areas identified above (see exhibit D).



3. Effect of Changes Proposed

The LCP does not currently provide guidance on the siting and design of WCFs specifically. Rather, the more general LCP requirements for development in the coastal zone currently apply to WCFs, including the requirements of the underlying zone district in which they may be proposed and any policies applicable to site specific issues (e.g., ESHA). These facilities are not currently explicitly identified as allowed uses within the coastal zone zoning districts.

The primary effect of the new LCP sections proposed would be to explicitly allow WCFs as a conditional use in all zone districts, and to apply specific application and approval standards addressing siting and design of them. Thus, the types of issues generally raised by these facilities will be better understood and should lead to better informed decisions. The new sections specifically direct siting of WCFs away from sensitive coastal resource areas, including avoiding areas located seaward of the first public road and on commercial agricultural property. In addition, a clear LCP preference for avoiding coastal resource areas is established, subject to FTA variance requirements and special criteria. In other words, it will be relatively more difficult to site WCFs seaward of the first public road and in the rural agricultural, scenic, and open space areas of the County (see map in exhibit D). All WCFs would be designed to minimize impacts. WCFs would be made conditional uses in all zoning districts, and thus decisions on them would be appealable to the Coastal Commission (because WCFs would not be principally permitted in any LCP zoning district).

C. LUP Consistency

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan.

1. Applicable LUP Policies

Visual Resources

The County's LCP is extremely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline. This is particularly true as it pertains to maintaining the rugged character of the rural north Santa Cruz coast. LUP policies include:

Objective 5.10.a Protection of Visual Resources. *To identify, protect, and restore the aesthetic values of visual resources.*

Objective 5.10.b New Development in Visual Resource Areas. *To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.*

LUP Policy 5.10.2 Development Within Visual Resource Areas. *Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section....*



LUP Policy 5.10.3 Protection of Public Vistas. *Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.*

LUP Policy 5.10.5 Preserving Agricultural Vistas. *Continue to preserve the aesthetic values of agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas.*

LUP Policy 5.10.6 Preserving Ocean Vistas. *Where public ocean vistas exists, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.*

LUP Policy 5.10.7 Open Beaches and Blufftops. *Prohibit the placement of new permanent structures that would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for approved structures: (a) allow infill structures (typically residences on existing lots of record) where compatible with the pattern of existing development. (b) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.*

LUP Policy 5.10.9 Restoration of Scenic Areas. *Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.*

LUP Policy 5.10.10 Designation of Scenic Roads. *The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...*

LUP Policy 5.10.11 Development Visible From Rural Scenic Roads. *In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)*

LUP Policy 5.10.12 Development Visible From Urban Scenic Roads. *In the viewsheds of urban scenic roads, require new discretionary development to improve the visual quality through siting, design, landscaping, and appropriate signage.*

LUP Policy 5.10.23 Transmission Lines and Facilities. *Require transmission line rights-of-way and facilities to be reviewed in accordance with the Zoning ordinance to minimize impacts on*



significant public vistas; especially in scenic rural areas, and to avoid locations which are on or near sensitive habitat, recreational, or archaeological resources whenever feasible.

LUP Policy 5.10.24 Utility Service Lines. *Require underground placement of all new utility service lines and extension lines to and within new residential and commercial subdivisions. Require underground placement of all other new or supplementary transmission lines within views from scenic roads where it is technically feasible, unless it can be shown that other alternatives are less environmentally damaging or would have unavoidable adverse impacts on agricultural operations. When underground facilities are installed parallel to existing above ground lines, require the existing lines to be placed underground with the new lines. When above ground facilities are necessary, require that the design of the support towers or poles be compatible with the surroundings and that lines cross roadways at low elevations or curves in the road in accordance with California Public Utility Commission regulations for public utility facilities.*

LUP Objective 5.11 Open Space Preservation. *To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.*

LUP Policy 7.7.1 Coastal Vistas. *Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...*

Urban/Rural Distinction

The LCP is also structured to encourage rural lands to stay rural, and to direct development to urban areas of the County better able to absorb such development. LUP policies include:

LUP Objective 2.1 Urban/Rural Distinction. *To preserve a distinction between urban and rural areas of the County, to encourage new development to locate within urban areas and discourage division of land in rural areas; and to achieve a rate of residential development which can be accommodated by existing public services and their reasonable expansion, while maintaining economic, social, and environmental quality.*

Chapter 5 Open Space Protection Goal. *To retain the scenic, wooded, open space and rural character of Santa Cruz County; to provide a natural buffer between communities; to prevent development in naturally hazardous areas; and to protect wildlife habitat and other natural resources.*

Land Use Priorities

The LCP establishes a hierarchy of priority uses. The LUP states:

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. *Maintain a hierarchy of land use priorities within the Coastal Zone:*



First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

Agriculture

The LCP is protective of agricultural land. Most of the County's north coast and south county rural coastal zone areas are designated for agriculture in the LUP. LUP policies include:

LUP Objective 5.13 Commercial Agricultural Land. To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the commercial production of food, fiber, and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.

LUP 5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land. Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production.

LUP 5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands. All conditional uses shall be subject to standards which specify siting and development criteria; including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions: (a) The use constitutes the principal agricultural use of the parcel; or (b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or (c) The use consists of an interim public use which does not impair long term agricultural viability; and (d) The use is sited to avoid conflicts with principal agricultural activities in the area; and (e) The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production.

LUP 5.13.7 Agriculturally Oriented Structures. Allow only agriculturally oriented structures or dwellings on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of preserving agriculture.

Environmentally Sensitive Habitat Areas

The LCP is very protective of environmentally sensitive habitat areas. LUP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors



and Wetlands). In general, these LUP policies define and protect ESHAs, allowing only a very limited amount of development at or near these areas. Relevant LUP policies include:

LUP Objective 5.1 Biological Diversity. *To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*

LUP Policy 5.1.2 Definition of Sensitive Habitat. *An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.*

LUP Policy 5.1.3 Environmentally Sensitive Habitats. *Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*

LUP Policy 5.1.7 Site Design and Use Regulations. *Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations: (a) Structures shall be placed as far from the habitat as feasible. (b) Delineate development envelopes to specify location of development in minor land divisions and subdivisions. (c) Require easements, deed restrictions,*



or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitats on adjacent parcels. (d) Prohibit domestic animals where they threaten sensitive habitats. (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens; (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.

LUP Policy 5.1.9 Biotic Assessments. *Within the following areas, require a biotic assessment as part of normal project review to determine whether a full biotic report should be prepared by a qualified biologist: (a) Areas of biotic concern, mapped; (b) sensitive habitats, mapped & unmapped.*

LUP Policy 5.1.12 Habitat Restoration with Development Approval. *Require as a condition of approval, restoration of any area of the subject property which is an identified degraded sensitive habitat, with the magnitude of restoration to be commensurate with the scope of the project. ...*

LUP Policy 5.1.14 Removal of Invasive Plant Species. *Encourage the removal of invasive species and their replacement with characteristic native plants, except where such invasive species provide significant habitat value and where removal of such species would severely degrade the existing habitat. In such cases, develop long-term plans for gradual conversion to native species providing equal or better habitat values.*

LUP Objective 5.2 Riparian Corridors and Wetlands. *To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.*

LUP Policy 5.2.5 Setbacks From Wetlands. *Prohibit development within the 100 foot riparian corridor of all wetlands. Allow exceptions to this setback only where consistent with the Riparian Corridor and Wetlands Protection ordinance, and in all cases, maximize distance between proposed structures and wetlands. Require measures to prevent water quality degradation from adjacent land uses, as outlined in the Water Resources section.*

LUP Policy 5.2.7 Compatible Uses With Riparian Corridors. *Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.*

Water Quality

In addition to the above policies that incorporate water quality protection into them, the LCP also more categorically protects water quality, including its affect on ESHA. Relevant LUP policies include:



Objective 5.4 Monterey Bay and Coastal Water Quality. To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.

Objective 5.7 Maintaining Surface Water Quality. To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.

LUP Policy 5.4.14 Water Pollution from Urban Runoff. Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.

LUP Policy 5.7.1 Impacts from New Development on Water Quality. Prohibit new development adjacent to marshes, streams and bodies of water if such development would cause adverse impacts on water quality which cannot be fully mitigated.

LUP Policy 5.7.4 Control Surface Runoff. New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.

LUP Policy 5.7.5 Protecting Riparian Corridors and Coastal Lagoons. Require drainage facilities, including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.

LUP Policy 7.23.1 New Development. ...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and in other areas as feasible.

LUP Policy 7.23.2 Minimizing Impervious Surfaces. Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.

LUP Policy 7.23.5 Control Surface Runoff. Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:... (b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition



development project approvals to provide ongoing maintenance of oil, grease and silt traps.

Cumulative Impacts

The LCP protects against impacts associated with individual projects, as well as the cumulative impact from such projects in relation to current and potentially planned development. The LUP states:

LUP Policy 2.1.4 Siting of New Development. *Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

Conclusion

In sum, the County's LUP protects coastal resources, particularly rural, open space and agricultural lands, and specifically visual resources. The County's rural north and south coast areas, mostly agricultural and rural, are explicitly protected against inappropriate structures and development that would impact agricultural viability and public viewsheds. Overall, these LUP requirements reflect and implement similar fundamental goals of the Coastal Act.

2. Consistency Analysis

In general, the proposed WCF ordinance provides clear, well thought-out policy direction for the siting of WCFs. The County has honed the ordinance over the past three years through multiple public hearings, through an advisory group (including stakeholders from the wireless service industry, local environmental groups, and other interested parties), and more recently with Commission staff during the course of the previous amendment review and the subsequent County process up to the current date. The proposed WCF addresses the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the County's rural north and south coasts and the areas seaward of the first public road that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas.

The proposed ordinance sections are predominantly consistent with and adequate to carry out the LUP policies cited above, with a few minor exceptions. Namely, there are some areas of potential confusion that affect the ability of the proposed text to implement the cited land use plan policies, and thus that affect the ability of the proposed text to protect the County's coastal zone resources (including visual resources, agricultural lands, urban-rural boundaries, ESHAs, and water quality – both from individual and cumulative effects) from the potential adverse effects associated with WCFs. These are discussed more specifically below.²

First Public Road

² Commission staff have worked closely with County staff on these identified issues, and appropriate changes to address concerns in this respect. Each of the modifications discussed in this finding have been discussed with the County, and Commission staff and County staff are in agreement on them.



The proposed ordinance sections define a series of areas within which WCFs are prohibited (see pages 9 and 10 of exhibit B). This includes the area between the sea and the first public road parallel to it. However, the proposed text includes an internal inconsistency because it designates the area seaward of the inland right-of-way as a prohibited coastal area, but then designates the right-of-way itself as a restricted area (see proposed Sections 13.10.661(b) and (c) on pages 9-12 of exhibit B). In other words, the proposed text designates the right-of-way as both prohibited and restricted. Because of this, it is unclear as to what criteria would apply within the right-of-way of the first public road. This is critical in the County, particularly in the rural north coast where the first through public road is predominantly Highway One, and a critical public viewshed.

The County has indicated that a primary reason for this resubmitted amendment was to designate the right-of-way as a restricted area, and to allow co-located micro facilities (e.g., small structures on existing power poles) in certain circumstances. These facilities would be subject to specific criteria designed to ensure that they blend seamlessly into the existing roadway aesthetic (i.e., very small, mounted on existing utility poles, small or subsurface equipment cabinets, inland (of travel lanes) location, etc – see pages 11 and 12 of exhibit B). Given the way the ordinance sections are structured to discourage facilities in the restricted areas, and specifically to allow only co-located micro facilities in the right-of-way subject to specific criteria, this shouldn't result in WCF development that is conspicuous, and may allow for lesser impacts cumulatively because a series of small (micro) facilities would be integrated into the existing right-of-way landscape, negating the need for relatively larger facilities inland of it.

That said, there are several corrections necessary for LUP conformance.

First, the internal confusion about the right-of-way being designated both a prohibited and a restricted area at the same time needs to be fixed (see suggested modification 3).

Second, to provide incentive for co-location in the restricted areas, the County has indicated (in proposed Section 13.10.661(c)(3)) that only non-located proposals in restricted areas would require an alternatives analysis (as specified in proposed Section 13.10.662(c)). Such an incentive seems appropriate. However, proposed Section 13.10.662(c) requires such an analysis in restricted areas whether co-located or not. To rectify this internal inconsistency, Section 13.10.662(c) needs to be modified for consistency with 13.10.661(c)(3) (see suggested modification 8).

Third, proposed Section 13.10.661(b)(4) includes criteria that is only applicable to development in the right-of-way. Because this section does not apply to the right-of-way itself (see above), and because this criteria has been encapsulated in proposed Section 13.10.661(c)(2), this language is redundant, and could lead to confusion (see suggested modification 4).

Fourth, the intent of allowing co-located facilities in the right-of-way of the first public road is that they are expected to be visually inconspicuous and fully camouflaged. This is implied, but not made specific in proposed Section 13.10.661(c)(2). Explicit reference to this objective is appropriate in this section, and would make it clear that the first public road viewshed is critically important within the County's coastal zone (see suggested modification 5).



And finally, proposed Section 13.10.661(c)(2)(iii) includes a qualifier that it only applies if a facility is located on a utility pole. Because siting on a utility pole is required in the right-of-way (per 13.10.661(c)(2)(i)(a)), this reference is confusing and internally inconsistent. In addition, should a utility pole be under grounded in the future, and the WCF facility removed as would be required, there may be residual site restoration issues at such a site that would need to be resolved (e.g., if utility cabinet removal resulted in a hole in the ground, a remainder concrete pad, or some other site degradation). Although such restoration is implied by the proposed removal requirement in this section, such a requirements should be explicit. See suggested modification 6.

In sum, the proposed right-of-way policies need some minor tweaking to ensure consistency with the cited LUP policies, as well as implementation of them through the proposed LCP text. As modified, WCF development in the right-of-way should not result in significant impacts to coastal resources.

Exemptions

The types of WCFs exempted from the requirements of the ordinance sections are generally appropriate, and include public safety WCFs operated by public safety agencies and minor facilities. These facilities would not be exempted from the more general criteria of Sections 13.10.663(a)(1) through 13.10.663(a)(8) (see pages 22-24 of exhibit B), and would not be exempted from other requirements of the LCP. However, the language proposed in the introductory paragraph of Section 13.10.660(e) needs additional clarity to ensure that this is the case. In particular, the proposed text states in part as follows:

If Chapter 13.20 requires a Coastal Development permit for a facility, device or activity exempted from this ordinance, the factors set forth in 13.10.663(a)(1) through 13.10.663(a)(8) shall apply.

This sentence is important in relation to the exemptions because it makes explicit the manner in which otherwise exempted facilities are to be reviewed in relation the proposed WCF LCP sections. There are several issues with this sentence as proposed:

- LCP Chapter 13.20 refers to “Coastal Zone Approvals” as opposed to coastal development permits. The Commission typically refers to them as the latter, and one could infer that LCP Chapters 18.10 and 13.20, when read together, refer to a coastal development permit, but the LCP’s zoning code is not that clear on this point. The term “coastal development permit” is not defined in Chapter 13.20 (or the zoning code elsewhere), although it is defined in the LUP.³ Thus, the sentence as proposed could lead to an assertion that Chapter 13.20 never requires a coastal development permit because there is no reference to same in that chapter. This could in turn lead to the cited sections never applying to exempted facilities as intended. Fortunately, this can easily be fixed changing the reference to “Coastal Zone approvals” because that is the terminology used in LCP Chapter 13.20.
- The way the sentence is structured, the proposed text could be read to imply that only

³ This issue will need to be addressed in a future clean-up amendment that involves either Chapter 13.20 and/or the definitions section of the LCP zoning code.



13.10.663(a)(1) through 13.10.663(a)(8) would apply (and not the other LCP policies) to projects requiring CDPs. This is not the intention, and a broad interpretation of the LCP as a whole would counter such an argument. That said, there is no reason it cannot be made clear that these sections apply in addition to applicable LCP sections.

- The proposed text refers to being “exempted from this ordinance” when it is actually the proposed LCP sections from which such facilities would be exempted. The term ordinance is unclear in this context and has no LCP status. This problem can be clarified by instead referring to the applicable sections (i.e., 13.10.660 through 13.10.668).
- The proposed text includes an “or” that could be read to create separate categories to which this sentence would apply. It is most likely that these projects will be a mix of facilities, devices, and activities. To be most inclusive of projects that are not only one or the other of the categories (and rather are a mix of the three), the “or” can be made into an “and/or” so that it is clear that the text applies to any permutation of these development types.
- Finally, the proposed text refers to “factors” in the cited sections. However, these sections do not refer to factors, but rather to criteria. To ensure that the criteria are applied as intended, the term factor would need to be replaced by criteria.

There are a number of ways of modifying the subject sentence to clarify the above issues while retaining its intent. In this case, adding text to the first sentence of this section and deleting the subject sentence resolves these issues in the most simple manner. In this way, it specifies the WCF sections that continue to apply to projects that require CDPs, and then goes on to say that the exemption does not undo the LCP requirements that continue to otherwise apply to such facilities (see suggested modification 1).

Also related to exemptions, the proposed list of exemptions includes facilities that are generally smaller in scale and/or for non-commercial use, and it also includes public safety agency facilities (see pages 8 and 9 of exhibit B for the proposed exemptions). Although these public safety agency facilities could be smaller in scale than a typical WCF, it is more likely that they would be similar in size and scope to a commercial operation. Because they would be exempt from most of the proposed WCF sections, it is possible that exempted public safety agency facilities could have relatively more impacts than would typical WCFs. This is unlikely because the general siting criteria of Sections 13.10.663(a)(1) through 13.10.663(a)(8) would still apply, as would all other applicable LCP coastal permitting requirements (see above). However, it seems possible that a public safety agency facility with more impacts than might be allowed for a commercial operator could be allowed due to a critical public need for such a facility. In such case, both the benefit and the burden of such a facility would all be on the public, and it is conceivable that it might be found appropriate in certain circumstances. However, should such an unlikely scenario occur, and then should that public agency facility no longer be operated by the public, but be operated instead by a commercial operator for private gain, the benefit-burden ratio would be upset. At such time, it would be appropriate to re-review the appropriateness of such a facility as a commercial operation against the standards of the LCP and the WCF ordinance sections to ensure LCP consistency in this regard (see suggested modification 2).



Reference to 13.10.660 through 13.10.668 inclusive

The proposed ordinance sections almost exclusively refer to “Sections 13.10.660 through 13.10.668 inclusive” except in proposed Section 13.10.661(j) (see page 13 of exhibit B). This is easily fixed to ensure internal consistency (see suggested modification 7).

Retroactivity of Interim Ordinance within the Coastal Zone

In adopting the proposed LCP text, the County also adopted a standard specifying that a previous interim wireless ordinance adopted by the County would apply to applications deemed complete by April 29, 2003 (see page 33 of exhibit B and page 3 of exhibit C). However, the interim ordinance was not submitted and was thus not reviewed nor certified by the Commission as part of the LCP. It cannot be made to apply retroactively to coastal zone applications deemed complete as of a specific date. The Commission’s practice has been that the certified standards in effect at the time that a decision is rendered are the standards that are applied within the context of that decision. The same would be the case for any applications received by the County for which actions have not yet been taken. Therefore, a modification is necessary to specify that the retroactivity clause does not apply to applications for development in the coastal zone (see suggested modification 9).

Maximum Heights

The proposed ordinance sections do not establish maximum heights for WCF facilities and/or towers. Rather, the ordinance is structured to minimize impacts, including through the use of minimizing heights to the degree necessary to accomplish this. The ordinance states that “all towers shall be designed to be the shortest height possible so as to minimize visual impact” (see Section 13.10.663(b)(6) on page 25 of exhibit B). In addition, all standards of the underlying zoning districts continue to apply. That said, the underlying district regulations are not directive towards WCF facilities and towers. They are instead focused on the types of structures generally considered in those districts (e.g., residential structures, agricultural structures, etc.).

Section 13.10.510(d) lists a series of height exceptions allowed in the zone districts, including specifying that “utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations” (see exhibit F). It could be argued, therefore, that there is no absolute height associated with commercial WCFs.

In terms of minor facilities exempted from the ordinance, the exemption text indicates that they cannot exceed the height limit for “non-commercial antennas” in the zoning district. Section 13.10.510(d) indicates that non-commercial antennas can be erected to a height not more than 25 feet above the height limit allowed in the zoning district, and further specifies that this height can be exceeded by 25 feet with a level 4 (administrative, public notice required) approval. That said, it isn’t clear to what height limit this section refers (since, like commercial facilities, the zone district texts themselves do not explicitly indicate what the height limit is for this type of project).

Thus, there is a certain lack of clarity as regards maximum allowed height for both the minor facilities (that need only be consistent with the underlying zone districts in this regard), and all other WCFs. Given the underlying LCP policies directed towards avoiding and otherwise minimizing impacts, like



visual impacts, the lack of an absolute limit in this regard is not critical. It is expected that impacts due to height for non-exempted WCFs will be sufficiently addressed by the requirements of the proposed ordinance, including the requirement that towers be as short as possible, and the remainder of the LCP. Any such structures will likely be kept to levels consistent with the aesthetics of surrounding land and the built environment, and avoid visual impacts. For exempt facilities, by making it clear that the general parameters of the proposed ordinance sections (for siting and design preference) apply, and that the remainder of the LCP policies also apply (see above), these facilities too should not result in undue impact based on the lack of clarify regarding maximum heights.

That said, the lack of an absolute height maximum in the zoning districts is an LCP issue that should be addressed in the future.⁴ Any such future LCP amendment should clearly specify height limits in each zone district for all structures (in addition to those generally expected, like SFDs in a residential zone), and should clarify the relationship of Section 13.10.510(d) to them. The Commission's rebuttable presumption is that height limits for structures associated with conditional uses in this respect should not exceed the existing maximum height limit established for other conditional uses in those zone districts (e.g., the height limit identified for conditional use residential structures in the CA Commercial agriculture zone district is 28 feet), and should be subject to reasonable upper limits for the types of structural elements identified in Section 13.10.510(d). In addition, the Commission expects that that is how questions of interpretation regarding structure heights will be resolved until such time as an LCP fix is provided. In sum, the LCP should be read broadly to protect against coastal resource impacts – primarily expected to be visual resource impacts – in these areas that might arise due to height of structures.

Conclusion

The Commission must determine whether the zoning code changes proposed are consistent with and adequate to carry out the LUP. In general, the IP text proposed is consistent with the LUP in this sense. There are, however, a few areas in which there are inconsistencies and/or other issues that would affect the proposed text's ability to carry out the LUP policies that ensure that coastal resources are protected as directed by the LUP. These issue areas are primarily confined to specificity regarding the standards that apply within the right-of-way of the first public road parallel to the sea, and to clarification of the proposed exemption text. Both of these issue areas are particularly important. The first public road is typically a scenic viewshed, particularly on the County's north coast, and potential WCF development within it must be understood in this special context. As to exemptions, facilities that are exempt from the proposed LCP text will not have been reviewed based on the explicit guidance present there that has been created for this specific type of development. As such, it is important that references to other standards that continue to apply be as clear as possible to ensure LCP consistency. Fortunately, there are modifications that can be made to address the identified issues. These modifications have been discussed with the County and they are supportive of them.

In conclusion, if so modified in all of the ways outlined here according to the cited modification texts,

⁴ County staff indicates that this has been identified as a future planning work item.



then the IP as amended by the proposed amendment, and as further modified as suggested above and in the cited modification texts, is approved as being consistent with and adequate to carry out the certified LUP as amended.

D. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The County in this case exempted the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

